



Attorney Docket No.: 0492611-0543/MIT9277 CONI

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Seleznev, *et al* Examiner: Cooke
Serial No.: 10/799,436 Art Unit: 1751
Filing Date: March 12, 2004
Title: VACUUM PROCESSING FOR FABRICATION OF SUPERCONDUCTING THIN FILMS FABRICATED BY METAL-ORGANIC PROCESSING

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION UNDER 37 C.F.R. 1.132

I, Valarie B. Rosen, declare as follows:

1. I am an attorney of record in United States Patent Application Serial No. 10/799,436 filed March 12, 2004 ("the '436 application"), and entitled "Vacuum Processing For Fabrication Of Superconducting Thin Films Fabricated By Metal-Organic Processing". This application claims priority to U.S. Patent Application No. 10/194,561 ("the '561 application") filed July 13, 2002, and to United States provisional patent application Serial No. 60/305,407, filed on July 13, 2001. My registration number is 45,698.
2. This Declaration is presented for the purpose of establishing the date of publication of by Solovyov, et al., entitled " *Ex-situ* Post-deposition Processing for Large Area $Y_1Ba_2Cu_3O_7$ Films and Coated Tapes", IEEE Transactions on Applied Superconductivity, **11(1)** 2939-2942 (2001) (hereinafter, "Solovyov").
3. On October 21, 2003, the Patent Office forwarded me an Office Action regarding the '561 application and including rejections over Solovyov.

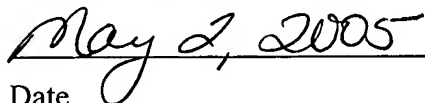
4. In the course of preparing a Response under 37 C.F.R. § 1.111 to the Office Action, I investigated the date of publication of Solovyov. As part of that investigation, I wrote an electronic mail message to Jacqueline Hansson of the IEEE Intellectual Property Rights Office. The IEEE publishes the journal in which Solovyov appeared. Exhibit A is a copy of that message.

5. Exhibit B is a copy of Ms. Hansson's reply to my message, indicating that the publication date of the edition of the IEEE Transactions on Applied Superconductivity in which Solovyov appeared was April 24, 2001.

6. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patents issued thereon.



Valarie B. Rosen



Date

Exhibit A

Rosen, Valarie

From: Rosen, Valarie
Sent: Friday, January 30, 2004 2:09 PM
To: 'j.hansson@ieee.org'
Subject: Publication Information

Ms. Hansson,

Thank you for speaking with me this afternoon. Could you please reply to this message with the publication date of the March 2001 issue of the IEEE Transactions on Applied Superconductivity (Volume 11, No. 1)

Thank you very much.

Valarie

Valarie B. Rosen, Ph.D.
Choate, Hall & Stewart
Exchange Place
Boston, MA 02109
617-248-4061
fax 617-248-5000

2/23/04

Exhibit B

Rosen, Valarie

From: j.hansson@ieee.org
Sent: Wednesday, February 04, 2004 9:34 AM
To: Rosen, Valarie
Subject: Re: Publication Information

Dr. Valerie Rosen
Choate, Hall & Stewart

SUBJECT: IEEE Transactions On Applied Superconductivity, March 2001, Volume 11, No. 1

Dear Dr. Rosen:

This is in response to your letter of 30 January 2004. According to our records the above IEEE publication was first published by the IEEE in print form on or about 24 April 2001

As a matter of policy, the IEEE will attempt, to the extent reasonably possible, to respond to such requests based on its available records. However, the IEEE makes no representation that its records accurately reflect first publication date information for legal purposes, and it is the duty of the individuals requesting such information to independently verify such information.

Please contact the undersigned if you have any additional questions.

Sincerely yours,

Jacqueline Hansson
IEEE Intellectual Property Rights Office
445 Hoes Lane
Piscataway, NJ 08855-1331 USA
+1 732 562.3828 (phone)
+1 732 981 8062 (fax)
e-mail: j.hansson@ieee.org

"Rosen, Valarie"
<VRosen@choate.co
m>

To: <j.hansson@ieee.org>
cc:
Subject: Publication Information

01/30/2004 02:09
PM

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